



PUBLIC NOTICE

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Actions Taken Under Cable Landing License Act

Section 1.767(a) Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Cable Landing Licenses (47 C.F.R. § 1.767(a))

By the Chief, Telecommunications and Analysis Division, International Bureau:

Pursuant to an Act relating to the landing and operation of submarine cables in the United States, 47 U.S.C. §§ 34-39 (Cable Landing License Act), Executive Order No. 10530, Exec. Ord. No. 10530 reprinted as amended in 3 U.S.C. § 301, and section 1.767 of the Commission's rules, 47 CFR § 1.767, the following applications ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules, 47 CFR § 0.261. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this public notice.

These applications have been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 CFR § 1.767(b), and consistent with procedures established with the Department of State. See Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Commission Announces Department of State's Revised Procedures for its Consideration of Submarine Cable Landing License Applications, IB Docket No. 16-155, Public Notice, DA 22-435 (rel. Apr. 19, 2022).

This public notice serves as each cable landing licensee's Cable Landing License, or modification thereto, pursuant to the Cable Landing License Act and sections 1.767 and 1.768 of the Commission's rules. Cable landing licensees should review the terms and conditions of their licenses. Failure to comply with these terms and conditions or relevant Commission rules and policies could result in fines or forfeitures.

Submarine Cable Landing License

Grant of Authority

Date of Action: 12/20/2022

Acceptability for Filing Public Notice: On April 22, 2022, GU Holdings Inc. (GU Holdings) filed an application (Application) for a license to construct, land, and operate a non-common carrier fiber-optic submarine cable system connecting the United States with Brazil, Uruguay, and Argentina, the Firmina cable system. GU Holdings filed a supplement to the Application on June 7, 2022. The Application was placed on Public Notice on June 17, 2022. See Streamlined Submarine Cable Landing License Applications Accepted for Filing, File No.

SCL-LIC-20220422-00015, Public Notice, Report No. SCL-00378S, (IB June 17, 2022). No comments or oppositions were filed in response to the Public Notice. On July 14, 2022, GU Holdings updated the address of the cable landing station in Myrtle Beach, South Carolina.

The Application has been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 CFR § 1.767(b), and consistent with the procedures established by the Department of State. See Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Commission Announces Department of State's Revised Procedures For Its Consideration of Submarine Cable Landing License Applications, IB Docket No. 16-155, Public Notice, DA 22-435 (IB Apr. 19, 2022). On June 27, 2022, the Department of Homeland Security filed a letter requesting that we defer action on the application. On December 8, 2022, the National Telecommunications and Information Administration, on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), filed a Petition to Adopt Conditions to Authorization and License. The Committee has no objection to the Commission approving authority to land and operate the Firmina cable system, provided that the Commission conditions its approval on the assurances of GU Holdings Inc. to abide by the commitments and undertakings set forth in the November 30, 2022 Letter of Agreement from GU Holdings Inc. to the Department of Homeland Security, the Department of Justice, and the Department of Defense.

Actions Taken: (1) Grant of Cable Landing License to GU Holdings Inc. for the purpose of landing and operating a non-common carrier fiber-optic submarine cable connecting the United States with Brazil, Uruguay, and Argentina, the Firmina cable system; (2) waiver of section 1.767(h)(1) of the Commission's rules, 47 CFR § 1.767(h)(1), in connection with the license; and (3) grant of the Petition to Adopt Conditions to Authorization and License filed by the National Telecommunications and Information Administration on December 8, 2022.

Licensee Information: GU Holdings, a Delaware corporation, is an indirect, wholly-owned subsidiary of Google LLC, a Delaware company. As of April 19, 2022, the 10% or greater direct or indirect interest holders of GU Holdings are: (1) Google International LLC (Google International), a Delaware company (100% equity and voting interest in GU Holdings); (2) Google LLC (97% equity and voting interest in Google International); (3) XXVI Holdings Inc. (XXVI Holdings), a Delaware company (100% equity and voting interest in Google LLC); (4) Alphabet Inc. (Alphabet), a Delaware company (approximately 91.8% of the equity interest and 99% of the vote and value of XXVI Holdings, which has different classes of equity with different voting power); (5) Larry Page, a U.S. citizen (26.3% voting interest in Alphabet through ownership of 43.5% of Alphabet's Class B common stock); and (6) Sergey Brin, a U.S. citizen (25.3% voting interest in Alphabet through ownership of 41.8% of Alphabet's Class B common stock). Alphabet's shares are publicly traded on the NASDAQ stock market. GU Holdings asserts that, as of April 19, 2022, no other entity or individual holds a 10% or greater direct or indirect equity or voting interest in Alphabet or GU Holdings.

Cable Design and Capacity: The Firmina cable system will consist of: (1) the Main Trunk from Myrtle Beach, South Carolina, to Las Toninas, Argentina; (2) two branching units on the Main Trunk connecting branches to Praia Grande, Brazil, and Punta del Este, Uruguay; (3) one branching unit with a stubbed branch pointing towards Puerto Rico or the Dominican Republic; and (4) one branching unit with a stubbed branch pointing towards Fortaleza, Brazil. GU Holdings states that at this time, there are no specific plans regarding build out of the stubbed branches, and GU Holdings will request any necessary modification to the submarine cable landing license to add a new landing point, in the event construction of any of the stubbed branches goes forward.

The Main Trunk will have a total length of 13,413 kilometers and consist of 16 fiber pairs. The portion of the Main Trunk between the branching unit for the branch to Praia Grande, Brazil, and the branching unit with the stubbed branch pointing towards Puerto Rico or the Dominican Republic will consist of 12 fiber pairs. The branch to Praia Grande, Brazil, will have a total length of 580 kilometers and consist of 24 fiber pairs. The branch to Punta del Este, Uruguay, will have a total length of 524 kilometers and consist of 12 fiber pairs. The stubbed branch pointing towards Puerto Rico or the Dominican Republic (located on the high seas) will consist of 12 fiber pairs. The stubbed branch pointing towards Fortaleza, Brazil (located in Brazil's exclusive economic zone), will consist of 16 fiber pairs. Each fiber pair will have a total design capacity of approximately 15 Terabits per second (Tbps) (for a total of approximately 240 Tbps for the system as a whole). GU Holdings intends to commence commercial operation of the U.S. endpoint of the cable system in December 2023.

Ownership and Control of the Cable System: GU Holdings and its affiliates will own and control the Firmina cable system as follows: (1) GU Holdings will hold 100% of the economic and voting interests in the portion in U.S. territory; (2) Google Singapore Pte. Ltd. (Google Singapore) will hold 100% of the economic and voting interests in the portion in international waters; (3) Google Infraestrutura Brasil Ltda. (Google Brasil) will hold 100% of the economic and voting interests in the portion in Brazil territory; (4) Google Infraestructura Uruguay S.R.L. (Google Uruguay) will hold 100% of the economic and voting interests in the portion in Uruguay territory; and (5) Google Infraestructura Argentina S.R.L. (Google Argentina) will hold 100% of the economic and voting interests in the portion in Argentina territory. GU Holdings, Google Singapore, Google Brasil, Google Uruguay, and Google Argentina are indirect, wholly owned subsidiaries of Google LLC. GU Holdings states that because Google Singapore, Google Brasil, Google Uruguay, and Google Argentina will not use the U.S. endpoint of the system, none of these entities is required by section 1.767(h)(2) of the Commission's rules to be an applicant for the cable landing license. 47 CFR § 1.767(h)(2).

Ownership and Control of Cable System Landing Stations: The cable landing stations for the Firmina cable system will be located in Myrtle Beach, South Carolina, Praia Grande, Brazil, Punta del Este, Uruguay, and Las Toninas, Argentina. The cable landing stations are owned and controlled as follows:

-Myrtle Beach, South Carolina: DC Blox Inc. (DC Blox) will own a new cable landing station and GU Holdings will be the landing party.

-Praia Grande, Brazil: Telxius Cable Brasil Ltda will own an existing cable landing station and Google Brasil will be the landing party.

-Punta del Este, Uruguay: Administración Nacional de Telecomunicaciones will own a new cable landing station and Google Uruguay will be the landing party.

-Las Toninas, Argentina: CenturyLink Argentina S.A. will own an existing cable landing station and Google Argentina will be the landing party.

For each of the foreign landings, the landing party, each of which is an affiliate of GU Holdings, is expected to enter into a long-term lease or an indefeasible right of use (IRU) with the owner of the cable landing station. Under that lease or IRU, the landing party will control access to the spaces within the cable landing station housing Firmina equipment.

GU Holdings requests a waiver of section 1.767(h)(1) of the Commission's rules so that DC Blox is not required to be an applicant for a U.S. cable landing license for the Firmina cable system. Section 1.767(h)(1) requires that "[a]ny entity that owns or controls a cable landing station in the United States" shall be "applicant for, and licensee on, a cable landing license." 47 CFR § 1.767(h)(1). GU Holdings asserts that DC Blox would have no independent ability to affect the Firmina cable system's operation, and including DC Blox as an applicant is also not necessary to ensure compliance by GU Holdings with the Cable Landing License Act, the Commission's cable landing license rules, or the terms of any cable landing license. According to GU Holdings, for the U.S. cable landing station, DC Blox is expected to provide certain limited services that would not enable DC Blox to significantly affect the Firmina cable system's operation. GU Holdings intends to contract with DC Blox for the right to use separately-caged collocation space in the cable landing station. GU Holdings also intends to contract with DC Blox for certain operation and maintenance services at the cable landing station. GU Holdings states that DC Blox is not expected to have access to GU Holdings' space, except: (i) to perform certain operation and maintenance services as per GU Holdings' direction and instructions; (ii) to conduct work in the space unrelated to the system, after providing GU Holdings advance notice and opportunity to supervise any such work; or (iii) in cases of emergency. DC Blox is expected to provide the following operation and maintenance services at the cable landing station in Myrtle Beach, South Carolina: site security and access control; telecommunications equipment climate control, alarm monitoring, testing, and troubleshooting (some of which will be under the direction of the system network operations center (NOC)); spare equipment storage and inventory tracking; periodic monitoring of the fronthaul (cable landing station to beach manhole); and billing and site administration. The agreement with DC Blox is expected to have an initial term of 15 years that could be extended by GU Holdings to 25 years. GU Holdings is thus expected to retain full operational authority over the landing in Myrtle Beach, South Carolina, and provide direction to DC Blox in all matters relating to the Firmina cable system.

The purpose of the section 1.767(h)(1) requirement is to ensure that entities having a significant ability to affect the operation of the cable system become licensees so that they are subject to the conditions and responsibilities associated with the license. See Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22194-95, paras. 53-54. Although DC Blox is the owner of the cable landing station in Myrtle Beach, South Carolina, we find, based on the record in this proceeding, that DC Blox will not have the ability to affect significantly the operation of the cable system. Accordingly, we grant GU Holdings a waiver of section 1.767(h)(1) and do not require DC Blox to be an applicant/licensee for the Firmina cable system.

Regulatory Status of the Cable: GU Holdings proposes to operate the Firmina cable system on a non-common carrier basis. GU Holdings states that, on the Firmina cable system, capacity will either be used by GU Holdings and its affiliates to meet their own internal needs for bandwidth, or made available to third parties pursuant to individually negotiated IRUs and capacity leases, the terms of which will vary depending on the characteristics and needs of the particular capacity purchase. Further, GU Holdings asserts that there are sufficient alternative facilities providing U.S.-South America connectivity to preclude the Firmina cable system from becoming a bottleneck facility on that route. Specifically, GU Holdings states that the U.S.-Brazil route is currently served directly by the BRUSA, Globenet, Monet, Seabras, Sam-1, SAC, and AMX-1 cables. GU Holdings also states that several systems like GlobeNet, Sam-1, and SAC connect the United States with Argentina. In addition, GU Holdings states that onward connectivity to Uruguay and Argentina is provided by a number of submarine cable systems and terrestrial networks between the three countries.

GU Holdings has provided information and demonstrated that the proposed operation of the cable on a non-common carrier basis satisfies the requirements set forth in *National Association of Regulatory Utility Commissioners v. FCC*, 525 F.2d 630, 642 (D.C. Cir 1976) (NARUC I), cert. denied, 425 U.S. 992 (1976). See also Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22202-03, paras. 69-70; Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Notice of Proposed Rulemaking 15 FCC Rcd 20789, 20815-18, paras. 62-67 (2000).

Conditions and Requirements: GU Holdings Inc. shall comply with the routine conditions specified in section 1.767(g) of the Commission's rules, 47 CFR § 1.767(g), and with the requirements of section 1.768 of the Commission's rules, 47 CFR § 1.768 (Notification by and prior approval for submarine cable landing licenses that are or propose to become affiliated with a foreign carrier).

We grant the Petition to Adopt Conditions to Authorization and License (Petition) filed in this proceeding by the National Telecommunications and Information Administration, on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, on December 8, 2022. Accordingly, we condition grant of the Application on GU Holdings Inc. abiding by the commitments and undertakings contained in the November 30, 2022 Letter of Agreement (LOA) from Brian Quigley, Authorized Signatory, GU Holdings Inc., to Under Secretary for Strategy, Policy and Plans, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security; Chief, Foreign Investment Review Section (FIRS) and Deputy Chief, Compliance and Enforcement (FIRS), on behalf of the Assistant Attorney General for National Security, United States Department of Justice, National Security Division; Office of Foreign Investment Review, Director, Undersecretary of Acquisition and Sustainment, U.S. Department of Defense. A copy of the Petition and the LOA are publicly available and may be viewed on the FCC's website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20220422-00015 and accessing "Other filings related to this application" from the Document Viewing area.

A failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the cable landing license and thus grounds for declaring the license terminated without further action on the part of the Commission. Failure to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission.